IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 815 (M/S) OF 2003.

Shivanshu Sharma …….Petitioner.

Vs.

Director, Indian Institute of Technology,
Roorkee, District Haridwar and another. ……Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Arvind Vashishth, learned counsel for the petitioner and Sri N.S. Pundir holding brief of Sri S. Dhulia learned counsel for the respondent.

By the present writ petition the petitioner has prayed for a mandamus to permit him to continue his studies as a student of B.E. Electrical Degree Course conducted by the respondent institution and further permit him the rejoining.

Briefly stated the petitioner has participated in the competitive examination after having being selected and admitted to the degree course. He got admission in the B.E. Electrical Degree Course conducted by the then Roorkee, University District Haridwar which is now known as Indian Institute of Technology, Roorkee, District Haridwar. The total Academic Session is four years degree course.

However he could not pass his first year in first Academic Session of 1991. He appeared in the first year examination again in next Academic Session 1991-92 when he passed examination of the first year.

He passed his second year's examination successfully in the next Academic Session in 1992-93. So far as third year's examination in the Academic Session 1993-94 is concerned due to shortage of attendance he could not appear in the first semester and, therefore, further he could not appear in the second semester as well.

In 1994-95 he was declared failed in both these Academic Sessions. In 1994-95 due to illness he could not appear. Further, he was permitted to rejoin on certain conditions in the year 1995.

The educational authorities are directed to see that the educational career of the petitioner may be considered as a relevant consideration.

In the case of Mohini Jain (Miss) Vs State of Karnataka & others reported in 1992 (3) SCC 666, the Apex Court has held as under:

"12. Right to life is the compendious expression for all those rights which the courts must enforce because they are basis to the dignified enjoyment of life. It extends to the full range of conduct, which the individual is free to pursue. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. The State Government is under an obligation to make endeavors to provide educational facilities at all levels to its citizens."

The aforesaid case has also been relied upon it the case of Unni Krishnan, J.P. & others Vs State of Andhra Pradesh reported in AIR

1993 Supreme Court 2178. Relevant paragraphs of this case are quote below:

"38. Now, coming to Mohini Jain's case (1992 (3) SCC 666: 1992 AIR SCW 2100) (supra) it was observed at pages 679-80 (of SCC): (at p. 2108 of AIR):

'Rights to life is the compendious expression for all those rights which the courts must enforce because they are basis to the dignified enjoyment of life. 'It extends to the full range of conduct, which the individual is free to pursue. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. The State Government is under an obligation to make endeavors to provide educational facilities at all levels to its citizens.'

39. Education is enlightenment. It is the one that lends dignity to a man as was rightly observed Gajendragadkar, J. (as he then was) in University of Delhi Vs. Ram Nath, (1964) 2 SCR 703 at p. 710: (AIR 1963 SC 1873 at p. 1875, para 6):

'Education seeks to build up the personality of the pupil by assisting his physical, intellectual, moral and emotional development.'

40. If life is so interpreted as to bring within it right to education, it has to be interpreted in the light of directive principals. This Court has uniformly taken the view that harmonious interpretation of the fundamental rights vis-a-vis the directive principals must be adopted."

The education, therefore, lends dignity to a man and Article 21 of the Constitution of India gives a right to education to an individual and the State Government is under an obligation to make endeavour to provide educational facilities at all levels to its citizens.

Due to some inaction on the part of the educational authorities to give proper training to a student so as to complete the level of requirements of the University Rules, a student should not be allowed to suffer. Steps should be taken to find out the lapses on the part of educational authorities and proper guidelines should be given in order to avoid repeated mistakes in the coming Semester instead of completely debarring, a student to reform himself.

The educational authorities, while admitting a student should also base itself on the reformative theory, instead of playing with the career of student on account of some lapses on either part. Regulations of the University authorities are the guidelines, but the oral guideline, which a student should receive, should also be consideration, which plays an important role in the career building of a student. If a student does not come to the estimation of the University authorities, once he is admitted to a particular course, it becomes the duty of the University authorities to look to the shortcomings as well. If the University authorities will proceed on this theory, I am sure that the students will devote themselves in the career building rather than will prefer to be ousted from the courses.

Since the petitioner has already passed two years and only two years has left, liberty is given to the petitioner to approach the

authorities and the authorities will take into consideration the illness of the petitioner and pass suitable orders on merits.

The rejoining in B.E. Electrical Degree Course shall be considered in accordance with the regulation.

The petitioner shall approach the authority within the period of two weeks from obtaining the certified copy of the order and the same shall be disposed of within the period of another three weeks in accordance with the Academic Regulation sympathetically.

Subject to the aforesaid observation, the writ petition is disposed of.

Dt/-28.8.2004

P. Bandhavakar **(Rajesh Tandon, J.)**